

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own motion, to make adjustments to the universal service fund mechanism established in NUSF-26.)	Application No. NUSF-50
)	
)	
)	
)	
In the Matter of the Commission, on its own motion, seeking to determine the level of the fund necessary to carry out the Nebraska Telecommunications Universal Service Fund Act.)	Application No. NUSF-4
)	
)	
)	

**REPLY TESTIMONY OF SUE VANICEK
ON BEHALF OF THE RURAL INDEPENDENT COMPANIES**

1 **I. Introduction.**
2
3 Q. PLEASE STATE YOUR NAME, EMPLOYER, BUSINESS ADDRESS AND
4 TELEPHONE NUMBER.
5
6 A. My name is Sue Vanicek. I am employed with Consortia Consulting f/k/a
7 TELEC Consulting Resources, Inc. ("Consortia"). My business address is 233
8 South 13th Street, Suite 1225, Lincoln, Nebraska 68508. My business telephone
9 number is (402) 441-4315.
10
11 Q. DID YOU FILE DIRECT TESTIMONY ON BEHALF OF THE NEBRASKA
12 RURAL INDEPENDENT COMPANIES IN THIS PROCEEDING?
13
14 A. Yes. I filed direct testimony on behalf of the Nebraska Rural Independent
15 Companies (the Companies")¹ on September 29, 2006.
16
17 Q. HAVE YOU READ ALL OF THE DIRECT TESTIMONY AND COMMENTS
18 FILED IN THIS PROCEEDING?
19
20 A. Yes, I have.
21
22 Q. WHAT IS THE PURPOSE OF YOUR REPLY TESTIMONY?
23

¹ The Companies are: Arlington Telephone Company, The Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telco Inc., Consolidated Telecom, Inc., Consolidated Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Co., K & M Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telecom Inc., and Three River Telco.

- 1 A. The purpose of my reply testimony is to respond to certain of the issues and
2 statements of position raised in the direct testimony and comments filed by
3 interested parties in this proceeding.
4
- 5 **II. The Companies Concur With a Number of Witnesses Who Recommend that**
6 **the Federal Universal Service Fund (“FUSF”) Imputation is Inappropriate**
7 **and it Should not be Implemented.**
8
- 9 Q. WERE THERE A NUMBER OF DIRECT TESTIMONIES FILED IN THIS
10 PROCEEDING THAT RECOMMENDED THAT THE COMMISSION’S
11 PROPOSAL TO IMPUTE TO THE STATE EARNINGS CALCULATION THE
12 MINIMUM OF EITHER THE TOTAL FEDERAL UNIVERSAL SERVICE
13 FUNDS RECEIVED BY A CARRIER, OR THE TOTAL INTERSTATE OVER-
14 EARNINGS RELATIVE TO THE AUTHORIZED FEDERAL RATE OF
15 RETURN BENCHMARK OF 11.25 PERCENT, AS SET FORTH IN THE
16 COMMISSION’S ORDER ENTERED IN THIS DOCKET ON AUGUST 29,
17 2006 (“PROPOSAL”) SHOULD NOT BE IMPLEMENTED?
18
- 19 A. Yes. The Rural Telecommunications Coalition of Nebraska (“RTCN”),
20 representing 16 Nebraska companies, United Telephone of the West d/b/a Embarq
21 (“Embarq”), and Citizens Communications Company of Nebraska d/b/a Frontier
22 Communications of Nebraska (“Frontier”) all recommended that the FUSF
23 imputation as set forth in the Proposal should not be implemented.
24
- 25 Q. WAS ANY TESTIMONY FILED THAT SUPPORTED THE PROPOSAL
26 INsofar AS IT SEEKS TO IMPUTE TO THE STATE EARNINGS
27 CALCULATION THE MINIMUM OF EITHER THE TOTAL FEDERAL
28 UNIVERSAL SERVICE FUNDS RECEIVED BY A CARRIER, OR THE
29 TOTAL INTERSTATE OVER-EARNINGS RELATIVE TO THE
30 AUTHORIZED FEDERAL RATE OF RETURN BENCHMARK OF 11.25
31 PERCENT?
32
- 33 A. Yes, only Sprint Spectrum L.P. and Nextel West Corp. (collectively referred to as
34 “Sprint”) filed testimony that supported the FUSF imputation proposal.
35
- 36 Q. WHAT REASON DID SPRINT OFFER TO SUPPORT FUSF IMPUTATION?
37
- 38 A. Sprint stated that “[f]ederal universal service funds are intended to reduce state
39 costs, and as such should be reflected in the computed state rate of return.”²
40 (emphasis added)
41
- 42 Q. IS THE RATIONALE OFFERED BY SPRINT TO JUSTIFY FUSF
43 IMPUTATION SUPPORTED BY ANY EVIDENCE IN THE RECORD?
44

² See Sprint Comments at p. 2.

1 A. No, there was no other testimony filed that supported FUSF imputation, and
2 Sprint offered no evidence to support its position.
3

4 Q. IS THE RATIONALE OFFERED BY SPRINT TO JUSTIFY FUSF
5 IMPUTATION DISPUTED BY ANY EVIDENCE IN THE RECORD?
6

7 A. Yes. As indicated by Frontier, 75 percent of high-cost loop support is allocated to
8 the intrastate jurisdiction, while 25 percent of loop cost is assigned to the
9 interstate jurisdiction.³ Frontier also notes that other federal universal service
10 support programs (Interstate Access Support (“IAS”), Interstate Common Line
11 Support (“ICLS”), Local Switching Support (“LSS”) and Safety Net Support)
12 provide support to the *interstate* jurisdiction.⁴ Embarq notes that IAS is direct
13 compensation for mandated reductions in *interstate* access rates, and as such IAS
14 has no relevance to intrastate loop cost support.⁵ Furthermore, as I indicated in
15 my direct testimony, LSS and ICLS are also mechanisms that were established by
16 the Federal Communications Commission (“FCC”) to recover costs formerly
17 embedded in *interstate* access rates, and, as such, are not associated with the
18 recovery of intrastate costs.⁶ This evidence confirms that federal universal service
19 funds are associated with the recovery of *interstate* costs,⁷ not intrastate costs as
20 asserted by Sprint. Due to the fact that LSS, IAS, and ICLS were established to
21 provide support for costs associated with the *interstate* jurisdiction, I believe it is
22 inappropriate to impute support from these mechanisms to the intrastate
23 jurisdiction.
24

25 Q. WERE OTHER REASONS OFFERED IN FILED TESTIMONY AS TO WHY
26 THE FUSF IMPUTATION SHOULD NOT BE IMPLEMENTED?
27

28 A. Yes. Embarq notes that the purpose of LSS is to offset high *switching* costs faced
29 by smaller companies to allow end-user rates to remain affordable.⁸ LSS is not
30 designed to support loop costs, and imputing LSS support to reduce intrastate
31 loop costs is counter to the purpose for which LSS was designed.⁹ The RTCN
32 witness indicates that the Commission’s FUSF imputation proposal would
33 eliminate the ability of many NUSF recipients to report earnings on a state-only

³ See Ruhland Testimony at p. 5.

⁴ Ibid.

⁵ See Harper Testimony at 8:3-6.

⁶ See Vanicek Testimony at 6:28-7:6.

⁷ With the exception of 75 percent of high-cost loop support, which is currently included in the intrastate earnings calculation on the NUSF-EARN form.

⁸ See Harper Testimony at 7:19:21.

⁹ Id. at 7:21-22.

1 basis.¹⁰ Furthermore, because the FUSF imputation would retroactively eliminate
2 the option to report on an intrastate-only basis, the imputation mechanism would
3 impact decisions made and risks taken several years ago.¹¹
4

5 Q. GIVEN THE EVIDENCE SET FORTH IN THE DIRECT TESTIMONIES, IS IT
6 YOUR RECOMMENDATION THAT THE COMMISSION SHOULD NOT
7 IMPLEMENT FUSF IMPUTATION?
8

9 A. Yes. The rationale presented above as to why the Commission should not
10 implement FUSF imputation is consistent with my direct testimony. Therefore, I
11 concur with RTCN, Embarq, and Frontier, and recommend that the Commission
12 should not implement FUSF imputation.
13

14 **III. The Companies Urge the Commission not to Raise the Benchmark Local**
15 **Rates in Order to Maintain Affordability and Comparability, and to Avoid**
16 **Disproportionately Negative Impacts on Rural Consumers.**
17

18 Q. WAS DIRECT TESTIMONY FILED IN THIS PROCEEDING THAT
19 SUPPORTED LEAVING THE BENCHMARK RATES AT THEIR CURRENT
20 LEVELS?
21

22 A. Yes. The RTCN witness urged the Commission to exercise extreme caution in
23 considering raising the benchmark local rates.¹²
24

25 Q. WHAT REASONS WERE PROVIDED IN SUPPORT OF THIS
26 RECOMMENDATION?
27

28 A. The RTCN urged caution in considering an increase in the local service
29 benchmark to ensure affordability of service.¹³ The RTCN noted that Nebraska
30 residents already pay rates more than ten percent above the national average for
31 local service.¹⁴
32

33 Q. WAS ANY OTHER INFORMATION PRESENTED REGARDING THE
34 AFFORDABILITY OF LOCAL RATES?
35

¹⁰ See Kelly Testimony at 8:24-26.

¹¹ Id. at 9:19-21.

¹² Id. at 10:12-14.

¹³ Ibid.

¹⁴ See Kelly Testimony at 10:7-9.

1 A. Yes. In addition to the substantially higher rates for local service in Nebraska as
2 cited by RTCN,¹⁵ in my direct testimony I noted that in 2004, per capita personal
3 income for the United States was \$33,050, while it was only \$28,143 for non-
4 metropolitan areas in Nebraska. I do not believe that a combination of rates that
5 are above the national average along with incomes that are below the average can
6 result in what can be considered to be an affordable rate.
7
8 Q. DID ANY WITNESS SUPPORT THE USE OF IDENTICAL BENCHMARK
9 RATES FOR URBAN AND RURAL CUSTOMERS?
10
11 A. Yes. The RTCN witness indicated that he did not agree with the Proposal to
12 adopt different benchmark rates for urban and rural customers.¹⁶ Frontier also
13 noted that it preferred one statewide benchmark.¹⁷
14
15 Q. WHAT REASONS WERE OFFERED FOR THE USE OF IDENTICAL
16 BENCHMARK RATES FOR URBAN AND RURAL CUSTOMERS?
17
18 A. The RTCN witness noted that while the statutory requirement is that rates be
19 “reasonably comparable,” many state commissions have interpreted this phrase to
20 mean identical rates.¹⁸ Similarly, Frontier’s witness indicated that maintaining a
21 single benchmark rate eliminates the need to determine if the Commission’s
22 proposed rural benchmark is “reasonably comparable” to the proposed urban
23 benchmark.¹⁹ The RTCN witness also noted that charging a different local rate
24 for customers of the same small rural local exchange carrier (“LEC”), depending
25 on whether the customer resides inside or outside the city limits, will increase
26 administrative costs, result in customer confusion, and ultimately create
27 resentment among customers.²⁰ Frontier similarly noted that establishing two
28 benchmarks (urban and rural) would create administrative billing difficulties and
29 confusion.²¹
30

¹⁵ Current data on basic local service rates presented by the Companies indicates that basic local service rates for residential customers served by rural incumbent local exchange carriers, including the federal subscriber line charge and all applicable federal and state taxes and surcharges were \$28.28 per month as of October 15, 2005, compared to a national average of \$24.74. See Vanicek Testimony at 4:8-13.

¹⁶ See Kelly Testimony. at 10:16-25.

¹⁷ See Ruhland Testimony at p. 4.

¹⁸ See Kelly Testimony at 10:19-21.

¹⁹ See Ruhland Testimony at p. 4.

²⁰ See Kelly Testimony at 10:21-25.

²¹ See Ruhland Testimony at p. 4.

1 Q. WERE THERE ANY OTHER REASONS OFFERED BY ANY WITNESS AS
2 TO WHY THE COMMISSION SHOULD NOT IMPLEMENT ITS PROPOSED
3 URBAN AND RURAL BENCHMARKS?
4

5 A. Yes. The Companies indicated that the Commission's proposed benchmark rates
6 would not result in "reasonably comparable" rates as defined by the FCC. For
7 example, the FCC had adopted two standard deviations around the average
8 national urban rate as a standard for comparability of rates to be used in
9 evaluating its non-rural high-cost universal service support mechanism. The U.S.
10 Court of Appeals for the Tenth Circuit rejected this determination, finding that
11 "the Commission erred in premising its consideration of the term 'preserve' on
12 the disparity of rates existing in 1996 while ignoring its concurrent obligation to
13 *advance* universal service, a concept that certainly could include a *narrowing* of
14 the existing gap between urban and rural rates." (emphasis added) The same
15 command to "preserve and advance" universal service is present in state statute.²²
16 Even at two standard deviations around the proposed average urban rate in
17 Nebraska of \$17.95, the highest rate that would be comparable under the FCC's
18 standard would be \$18.55. And, as I just explained, the Tenth Circuit Court of
19 Appeals has remanded the FCC's finding that reasonably comparable rates can be
20 defined as within two standard deviations of the mean, instructing the FCC to
21 consider narrowing the existing gap in urban and rural rates. While the FCC has
22 not yet redefined reasonably comparable rates in response to the court remand, I
23 would expect that it would define such rates to be a more narrow range than two
24 standard deviations in order to comply with the findings of the court. Therefore, I
25 do not believe that an increase in the rural benchmark rate to \$19.95 will result in
26 reasonably comparable rates when considering standards developed by other
27 regulatory agencies such as the FCC, especially since the FCC's current standards
28 may provide too wide a variation in rates in the view of the court.
29

30 In addition to the information regarding the application of the "reasonably
31 comparable" rate standard developed by the FCC presented above, in my direct
32 testimony I noted that in its November 3, 2004 Order in Application No. NUSF-
33 26, the Commission chose a single benchmark for both urban and rural areas in
34 order to keep rate comparable.²³ The Commission also eliminated zone charges
35 in order to foster the goal of rate comparability.²⁴
36

37 Q. GIVEN THE ABOVE DISCUSSION, WHAT IS YOUR RECOMMENDATION
38 CONCERNING THE PROPOSAL TO RAISE THE LOCAL SERVICE
39 BENCHMARK RATES IN ORDER TO MAINTAIN AFFORDABILITY AND
40 COMPARABILITY?
41

²² See Neb. Rev. Stat. § 86-323.

²³ See Vanicek Testimony at 4:23-39.

²⁴ Ibid.

1 A. I would recommend that the Commission maintain the current \$17.50 local
2 benchmark rate in order to maintain affordable and reasonably comparable rates.
3

4 Q. DO YOU HAVE ANY OTHER CONCERNS REGARDING THE PROPOSAL
5 TO ESTABLISH A DIFFERENT LOCAL SERVICE BENCHMARK RATE
6 FOR URBAN AND RURAL CUSTOMERS?
7

8 A. Yes. Many rural telephone companies in Nebraska obtain financing or financing
9 assistance from the Rural Utilities Services ("RUS"). RUS loan documents
10 contain a prohibition on zone charges or differential rates between urban and rural
11 areas as a condition of obtaining RUS financing.
12

13 Q. WOULD YOU PLEASE FURNISH AN EXAMPLE OF THE RUS LOAN
14 DOCUMENT THAT PROVIDES A PROHIBITION OF ZONE CHARGES AS
15 A CONDITION OF OBTAINING RUS FINANCING?
16

17 A. Yes. Although RUS loan documents evolve over time, the current loan
18 agreement, as well as previous versions of the loan agreement, contain a
19 prohibition on zone charges. For example, the current version of section 5.11
20 (a)(1) of Rural Utility Service Loan Agreement provides that "[i]f regulatory
21 approval is required to effectuate its telephone service tariff, the Borrower shall
22 seek and use its diligent best efforts to obtain all regulatory body approvals
23 necessary to place in effect and thereafter to maintain in effect a tariff for
24 telephone service which . . . (B) does not include mileage or zone charges for any
25 telephone service provided by the Project . . ." Additionally, this provision
26 requires that the "borrower shall place such tariff into effect as soon as permitted
27 by applicable laws and regulations and shall use its diligent best efforts to obtain
28 all necessary regulatory body approvals of such revisions of its tariff as may be
29 necessary from time to time to satisfy the requirements of this provision." . . .
30

31 Q. SHOULD THE COMMISSION CONSIDER THE RUS REQUIREMENTS
32 WHEN CONSIDERING THE USE OF ZONE CHARGES, OR DIFFERENT
33 BENCHMARK RATES FOR URBAN AND RURAL AREAS IN NEBRASKA?
34

35 A. Yes. The Commission should consider the potential difficulties that could be
36 caused to companies that have or are attempting to obtain RUS financing.
37 Companies that have RUS financing would be faced with a loss of support due to
38 manner in which the increase in the rural benchmark is implemented in the
39 support mechanism as I will now explain, and such companies could not
40 implement a higher benchmark rate for their rural consumers than their urban
41 consumers without violating their RUS loan agreements.
42

43 Q. DO YOU HAVE ANY CONCERNS WITH THE MANNER IN WHICH THE
44 INCREASE IN THE RURAL BENCHMARK IS IMPLEMENTED IN THE
45 SUPPORT MECHANISM?
46

1 A. Yes. Both Embark and Qwest indicate that the Proposal does not treat the
2 increased urban and rural benchmarks in the same manner. The increase in the
3 rural benchmark is treated as a final adjustment to each company's support.²⁵ The
4 Commission has calculated the expected increase in revenues as a result of the
5 proposed increase in the rural benchmark, and then reduces each company's
6 support by this calculated amount.²⁶ The result is a dollar-for-dollar decrease in
7 support received.²⁷

8
9 Q. LET'S ASSUME THAT COMPANIES DO NOT ADOPT DIFFERENT RATES
10 FOR THEIR URBAN AND RURAL CUSTOMERS. LET'S ASSUME
11 INSTEAD THAT EACH COMPANY ADOPTS A SINGLE RATE FOR ALL
12 ITS RESIDENTIAL CUSTOMERS THAT WOULD COMPENSATE FOR THE
13 COMPANY'S LOSS IN NUSF SUPPORT DUE TO THE PROPOSED RURAL
14 BENCHMARK IMPUTATION MECHANISM. WOULDN'T THAT
15 RESOLVE THE RATE COMPARABILITY PROBLEMS THAT YOU HAVE
16 DESCRIBED?

17
18 A. No. Under that scenario, rate differences from company to company would
19 exceed the comparability standard put forward by the FCC.
20

21 Q. CAN YOU EXPLAIN HOW THESE RATE DIFFERENCES AMONG
22 COMPANIES WOULD ARISE?

23
24 A. Yes. The rural benchmark imputation mechanism calculates the amount to be
25 deducted from each company's annual NUSF support as the product of four
26 factors: (1) the number of households in the out-of-town support areas served by
27 the company that receive support through the basic support allocation mechanism,
28 (2) the model's factor of 1.15 access lines per household, (3) the difference
29 between the model's rural monthly rate benchmark and its urban monthly rate
30 benchmark, and (4) 12 months per year. The difference between the model's
31 rural and urban benchmarks is \$2.00. Consequently, each company's annual
32 NUSF support is reduced by \$27.60 for every out-of-town household it serves.²⁸
33 For some companies, the number of households in out-of-town support areas is a
34 substantial percentage of the total number of households served by the company,
35 while for other companies, this percentage is much smaller. For example, over
36 sixty-three percent of households served by the Hershey Cooperative Telephone

²⁵ See Harper Testimony at 7:5-6.

²⁶ Id. at 7:6-8.

²⁷ See Copeland Testimony at 13:18-20.

²⁸ This is true throughout Nebraska with only one exception: Qwest's Omaha exchange includes an out-of-town support area with 6,871 households, but because of the household density of this support area, no NUSF support is allocated to it through the basic support allocation mechanism, and thus Qwest does not lose any support through the rural benchmark imputation mechanism for its out-of-town households in the Omaha exchange.

1 Company are in out-of-town support areas, whereas less than seven percent of
2 Qwest's households are out-of-town. As a result, Hershey would have to impose
3 a much larger rate increase than would Qwest, to compensate for the loss in
4 support due to the rural benchmark imputation mechanism. In fact, Hershey
5 would have to increase its basic monthly residential rate by \$1.51, whereas Qwest
6 could make up its loss by increasing its residential rate by only \$0.31 per month.
7 For customers in western Lincoln County, such a rate disparity would be
8 particularly apparent, as customers in Hershey's service area would pay
9 substantially higher rates than would their neighbors in Qwest's North Platte
10 exchange.

11
12 Q. IN THE EVENT THAT THE COMMISSION IMPLEMENTS ITS PROPOSAL
13 TO RAISE RURAL BENCHMARK RATES, WHAT IS YOUR
14 RECOMMENDATION?

15
16 A. I concur with Embarq²⁹ and Qwest³⁰ in recommending that, if the Commission
17 chooses to raise the rural benchmark, it should treat the increase in the same
18 manner as the increase in the urban benchmark is treated. In other words, the
19 benchmark for rural areas would be applied in the inputs sheet, the same as is
20 done for the benchmark for urban areas..³¹

21
22 Q. DO YOU HAVE ANY OTHER CONCERNS WITH THE PROPOSED
23 CHANGES TO THE RATE BENCHMARKS?

24
25 A. Yes. As stated in the August 29 NUSF-50 Order, "[t]he Commission proposes to
26 change the urban rate benchmark in the model from \$17.50 to \$17.95 to reflect
27 the urban rates currently in effect today."³² The Order does not address whether
28 this proposed change in the model is accompanied by a proposed change in
29 requirements for eligibility for companies to receive NUSF support. It is my
30 opinion that the Commission should clearly state whether any change to the rate
31 benchmark that the Commission may ultimately adopt in the NUSF distribution
32 model is accompanied by a change in the eligibility requirements that NETCs
33 must meet in order to receive NUSF support.

34
35 The Order also describes the proposed introduction of a new rural benchmark
36 imputation mechanism, with an imputed monthly rate set at \$19.95.³³ The Order
37 states as follows:

²⁹ See Harper Testimony at 7:8-10.

³⁰ See Copeland Testimony at 14:1-10.

³¹ Ibid.

³² See the Nebraska Public Service Commission, on its own Motion, to make adjustments to the universal service mechanism established in NUSF-26, Application No. NUSF-50, Order Seeking Comment, Setting Hearing and Establishing Case Progression Schedule (entered August 29, 2006) (the "Order") at para. 10.

³³ Id. at para. 14.

1 The Commission proposes to make an explicit reduction in high-cost
2 support in those areas to reflect the fact that companies in those areas
3 can raise their rates a maximum of two dollars.³⁴
4

5 Although the Order refers to companies' ability to raise rates in high cost areas "a
6 maximum of two dollars" as a "fact," I am not aware of any law, rule, or order
7 promulgated by any regulatory authority that has established such a limit on rate
8 increases in high cost areas.
9

10 Further, I am concerned that the Commission is proposing a new rate benchmark
11 imputation mechanism in the distribution model without clearly stating whether
12 its proposal is accompanied by changes to the NUSF eligibility requirements. In
13 my opinion, the Commission should clearly state any new NUSF eligibility
14 requirements, especially requirements related to minimum rates or maximum
15 rates, that may accompany changes to the distribution model that it decides to
16 adopt.
17

18 **IV. The Companies Concur with a Number of Witnesses' Testimonies That**
19 **Support Raising the NUSF Surcharge.**
20

21 Q. WERE THERE A NUMBER OF WITNESSES THAT RECOMMENDED
22 RAISING THE NUSF SURCHARGE?
23

24 A. Yes. The RTCN, Embarq, and Nebraska Technology & Telecommunications,
25 Inc. ("NT&T") recommended increasing the NUSF surcharge.
26

27 Q. WHAT REASONS TO RAISE THE SURCHARGE WERE OFFERED?
28

29 A. In general, the witnesses supporting a surcharge increase pointed out that the
30 Proposal to reduce by about one-third the amount of high-cost support distributed
31 would cause the permanent NUSF support mechanism to fail to meet statutory
32 principles. For example, the RTCN witness indicated that a reduction in NUSF
33 high-cost support distributed of \$20 to \$25 million could seriously jeopardize the
34 *sufficiency* of support.³⁵ The NT&T witness noted that such a reduction in NUSF
35 high-cost support distributed could also raise questions concerning the
36 *predictability* of support.³⁶ Other reasons offered for the need to increase the
37 NUSF surcharge include providing funding to continue offering *high-quality*,
38 *reliable service* in high-cost areas *at affordable rates*.³⁷
39

³⁴ Ibid.

³⁵ See Kelly Testimony at 12:9-17.

³⁶ See Musfeldt Testimony at 3:1-12 and 6:7-15.

³⁷ See Staihr Testimony at 11:12-16.

1 Q. DO YOU AGREE WITH THE REASONS PRESENTED BY THESE
2 WITNESSES SUPPORTING THE NEED TO RAISE THE SURCHARGE?
3
4 A. Yes, as I noted in my direct testimony, the Companies believe that the proposed
5 \$23 million reduction in NUSF support distributed would result in the permanent
6 NUSF support mechanism distributing insufficient support. It would also render
7 the permanent NUSF support mechanism unpredictable, and would jeopardize the
8 ability of carriers to provide service at affordable rates in high-cost areas.
9
10 Q. DID ANY WITNESS RECOMMEND MAINTAINING THE NUSF
11 SURCHARGE AT 5.75 PERCENT?
12
13 A. Yes. Allo Communications, LLC (“Allo”), Frontier, and Sprint recommended
14 maintaining the NUSF surcharge at 5.75 percent.
15
16 Q. WHAT REASONS TO MAINTAIN THE SURCHARGE AT 5.75 PERCENT
17 WERE OFFERED?
18
19 A. Allo and Sprint offered no justification for maintaining the surcharge at its current
20 level.³⁸ Frontier indicated that the surcharge should not be raised because it sends
21 a confusing message to Nebraska consumers, and Frontier is concerned about
22 reliance upon NUSF support in light of political pressures to minimize or even
23 eliminate the NUSF.³⁹
24
25 Q. IN YOUR OPINION, ARE THE REASONS OFFERED FOR MAINTAINING
26 THE SURCHARGE AT 5.75 PERCENT VALID?
27
28 A. No, not in my opinion. In response to the concern that raising the surcharge more
29 than a year after lowering the surcharge sends a confusing message to Nebraska
30 consumers, I would note that the federal universal service surcharge is adjusted on
31 a quarterly basis, and has been adjusted both upward and downward in recent
32 years. Consumer bills change in response to the federal universal service
33 surcharge changes; therefore, consumers are frequently subject to small changes
34 in their bills due to changes in surcharge percentages. Furthermore, as indicated
35 by Dr. Staihr, the change in the NUSF surcharge was small in terms of the total
36 bill, and there is no evidence in the record to indicate that the reduction in the
37 NUSF surcharge that occurred on October 1, 2005 had any influence on consumer
38 purchasing decisions.⁴⁰ In response to Frontier’s expression of concern about
39 reliance on NUSF support in light of political pressures to minimize or eliminate
40 the NUSF fund, the Companies believe, as indicated in the direct testimony of Mr.
41 Pfister and myself, that substantially reducing NUSF support would cause the

³⁸ See Allo Comments at p. 3 and Sprint Comments at p. 1.

³⁹ See Ruhland Testimony at pp. 2-3.

⁴⁰ See Staihr Testimony at 8:10-21.

1 permanent NUSF support mechanism to fail to meet several statutory principles
2 which it was established to fulfill. While Frontier is supporting a reduction in the
3 NUSF in this proceeding, I would note that in comments filed recently in a
4 proceeding requesting comment on the concept of using “reverse auctions” to
5 determine federal universal service support amounts, Frontier stated “Frontier is
6 concerned that the focus of the Joint Board appears to be moving toward a goal of
7 minimizing the size of the fund rather than ensuring universal service. While
8 controlling the size of the fund is a worthy goal, this goal must take second place
9 to the statutory policy of preserving and advancing universal service.”⁴¹ The
10 Companies believe the same principle should apply to the NUSF. The
11 Commission should take action to ensure that the Nebraska Telecommunications
12 Universal Service Fund Act is appropriately administered, instead of adjusting the
13 permanent NUSF funding mechanism for reasons other than adherence to
14 statutory principles.

15
16 Furthermore, Frontier suggests that instead of increasing the size of the NUSF,
17 companies should be allowed to raise end-user service rates, which it believes is a
18 more stable source of funding. The Companies note that for carriers such as
19 Frontier with tens of thousands of access lines such a shift in cost recovery may
20 be feasible. However, for carriers such as the Companies, only one of which has
21 more than ten thousand access lines, it is not feasible to raise end-user rates
22 enough to cover the shortfall as measured by the proposed individual company
23 distributions contained in the Proposal. Therefore, the Companies continue to
24 recommend that the Commission should raise the NUSF surcharge so that the
25 NUSF support mechanism produces sufficient and predictable support that will
26 allow the Companies to provide service at reasonably comparable rates.

27
28 **V. The Companies Recommend that the Commission Assess All Appropriate**
29 **Services in Order to Meet Statutory Obligations Associated with the NTUSF**
30 **Act.**

31
32 Q. IN ADDITION TO RAISING THE NUSF SURCHARGE AS DISCUSSED
33 ABOVE, DID ANY WITNESS RECOMMEND ANY OTHER ACTIONS THAT
34 THE COMMISSION COULD TAKE IN ORDER TO ENSURE THE
35 SUFFICIENCY OF THE NUSF?

36
37 A. Yes. Embarq recommended that the Commission should follow the lead of the
38 FCC, which recently issued an order requiring providers of interconnected voice
39 over Internet protocol (“VoIP”) services to contribute to the federal universal
40 service fund.⁴² Embarq notes that it would be competitively neutral and
41 economically rational for the Commission to now require providers of

⁴¹ See *Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, WC Docket No. 05-337, Comments of Frontier Communications on Use of Reverse Auctions (filed Oct. 10, 2006) at pp. 1-2.

⁴² See Staihr Testimony at 12:4-9.

1 interconnected VoIP service to contribute to the NUSF.⁴³ Embarq indicates that
2 providers of interconnected VoIP service reap benefits from being connected to
3 the PSTN, by allowing their customers to place calls to and receive calls from
4 non-VoIP customers.⁴⁴ Therefore, it is economically rational to require such
5 carriers to contribute to the NUSF. Embarq also notes that assessing the NUSF
6 surcharge on interconnected VoIP services would take a needed step toward
7 expanding the NUSF contribution base.⁴⁵

8
9 Q. DO YOU AGREE WITH EMBARQ'S RECOMMENDATION CONCERNING
10 ASSESSMENT OF THE NUSF SURCHARGE ON INTERCONNECTED VoIP
11 SERVICES?
12

13 A. Yes. In my direct testimony, I supported Progression Order No. 18 in Application
14 No. NUSF-1 which proposes that interconnected VoIP service providers that offer
15 such service in Nebraska should contribute to the NUSF.⁴⁶ I also noted that
16 requiring interconnected VoIP service providers offering service in Nebraska to
17 contribute to the NUSF would be competitively neutral and would expand the
18 base of services supporting the NUSF.⁴⁷
19

20 **VI. Conclusion**
21

22 Q. PLEASE SUMMARIZE YOUR TESTIMONY.
23

24 A. In summary, my recommendations to the Commission regarding the Proposal are
25 as follows:
26

- 27 1) The Commission should not implement FUSF imputation, as it
28 inappropriately imputes support for interstate costs to the intrastate
29 jurisdiction, and inappropriately imputes support for switching and
30 transport to a fund that is designed to support loop costs.
31
- 32 2) The Commission should not increase the benchmark rates, as this would
33 result in rates that are neither affordable nor reasonably comparable.
34 Furthermore, the establishment of "zone" charges, or different rates for
35 urban and rural consumers, would cause great difficulties for companies
36 that have or are seeking RUS financing, as RUS does not allow the
37 charging of "zone" charges.
38

⁴³ Id. at 12:7-9 and 13:5-6.

⁴⁴ Id. at 12:9-13.

⁴⁵ Id. at 13:6-7.

⁴⁶ See Vanicek Testimony at 8:18-31.

⁴⁷ Ibid.

- 1 3) The Commission should raise the NUSF surcharge to a level that allows it
2 to maintain distributions at the total amount distributed in 2006, in order to
3 help ensure that the permanent NUSF support mechanism results in
4 specific, predictable, and sufficient support.
5
6 4) The Commission should expand the list of services that are assessed an
7 NUSF surcharge to include interconnected VoIP services offered in
8 Nebraska.
9
10 Q. DOES THIS CONCLUDE YOUR TESTIMONY?
11
12 A. Yes, it does.